

Mr. SPEAKER.—The question is :

“That the amendments made by the Legislative Council be agreed to.”

The motion was adopted.

THE MYSORE PROHIBITION BILL.

Motion to consider.

The amendment made by the Legislative Council.

Sri VEERENDRA PATIL (Minister for Prohibition and Excise).—Sir I beg to move:—

“That the amendments made by the Legislative Council to the Bill as passed by the Legislative Assembly be taken into consideration”.

Mr. SPEAKER.—Motion moved:

“That the amendments made by the Legislative Council to the Bill as passed by the Legislative Assembly be taken into consideration”

†Sri VEERENDRA PATIL.—The amendments are as follows:

1. “In second proviso, of Clause 16, for the words ‘possession or use of any such article’, the words ‘possession or use of any liquor or alcohol for the manufacture of any such article’, shall be substituted.”

2. “In Clause 18, in the heading of the clause after the word ‘intoxicants’ the words ‘or licensing manufacture of intoxicants’ shall be added.”

After item (e) the following item shall be added:—

“(f) Licence on such conditions as the State Government deems fit to impose the manufacture of liquor or any intoxicating drug by any person”

In Clause 44, the words ‘in addition to or in variation or substitution of any of the conditions provided by this Act, shall be deleted.

In Clause 87, sub-clause (3) shall be deleted.

In Clause 125, for the words and figure ‘every notification issued under Section 130, the words and figures ‘every notification issued under Section 17 or Section 130 ‘shall be substituted.

In Clause 129, after the proviso to sub-clause (1) the follownig proviso, shall be added namely:

“Provided further, but subject to the preceeding proviso, any permit, pass, licence or authorisation made or issued under any of the repealed enactment shall, so far as it is not inconsistent with the provisons of the Act, be deemed to have made or issued under the corresponding provisions of this Act, and shall continue to be in force accordingly, unless and until

it expires or is superseded by anything done or any action taken under this Act."

Sir, the Mysore prohibition Bill 1961 is now before this August House for consideration of the amendments made by the Upper House. Just now I read out the amendments Sir, some of the amendments are verbal and some are of a very minor character I believe I have every hope that this August House will have no objection to accept these amendments and this amendments will be accepted without any discussion, because it was found that these amendments were very necessary in order to make this Bill complete and perfect.

At the outset, I would like to make it clear that these amendments which were accepted in the Upper House were not moved in this House. If these amendments had been moved in this House, I would have accepted them.

Without going into details a great length, I would explain a few points Sir.

There is one amendment to Clause 16. This was a verbal amendment and there was a print mistake and some words had been omitted. The amendment is to the second proviso. According to the original proviso, it was necessary for all the consumers or users of toilets and other medicinal preparations to possess a licence. It would only mean harassment to the public. That was not the intention of the Government. The intention of the Government was to make all the manufacturers who use liquor or alcohol for the manufacture of toilets and medicinal preparations to possess licence under Section 24. Unfortunately, these words 'any liquor or alcohol for the manufacture' had been omitted and that was a print mistake. When it was pointed out in the Upper House, this amendment was found necessary and it was accepted Sir.

Similarly, there is one more amendment to Clause 18. In Clause 11 provision is made only for the establishment of the distillaries, breweries and warehouses in the public sector. Hon'ble Members are aware that there are distillaries, breweries and warehouses which are owned by the private people and there is no provision to licence such breweries and distillaries and warehouses, which are opened and owned by private people. In order to enable Government to licence such distillaries and warehouses, certain provisions were necessary. Therefore, this amendment was accepted when it was moved in the Upper House.

Sri J. B. MALLARADHYA.—I do not follow Sir.

Sri VEERENDRA PATIL.—The amendment to this clause is: (f) is added. The Commissioner may licence on such conditions as the State Government may deem fit to impose for the manufacture of liquor or any intoxicating drug by any person. The provision in the Bill as it is, for the Commissioner to establish a distillery. But there are distillaries breweries which are owned by private persons.

Sri M. C. NARASIMHAN.—18 (c) covers the same point.

Sri VEERENDRA PATIL.—This is with regard to the construction and working of a distillery or brewery. But there are certain processes for the manufacture of wine. So far as my knowledge goes, these distillation and brewery process is not at all necessary. Some process is necessary for Indian Made foreign liquor. In order to make that point more clear, addition of one sub-clause (f) is found to be necessary and therefore, this amendment was accepted. I think the Hon'ble Members of the House have no objection to accept this amendment.

Similarly, there is one more amendment to Clause 44. Clause 44 relates to the general conditions of licence etc. Certain words have been omitted. Government have taken power of making additions and substitutions and variations and additions which are not provided in the Act. It was objected to in the Upper House and it was felt that the Government should not be invested with such wide powers and I accepted the amendment. I feel that Hon'ble Members will have no objection to accept this. In a way, it curtails the powers of the Government to make any additions or variations to the conditions which are not provided in the Act.

There is one more amendment to Clause 87.

Then there is an amendment to clause 87 for the deletion of sub-clause (3). It was found that in sections 58, 59 and 63 the maximum penalty prescribed was only up to Rs. 2,000. This provision was made to enable the Magistrate to pass a sentence of fine exceeding Rs. 2,000 because under section 32 of the Criminal Procedure Code the Magistrate cannot pass a sentence exceeding Rs. 2,000. But when we perused sections 58, 59 and 63 there also the maximum penalty prescribed was only Rs. 2,000 and so it was found that this sub-clause (3) was redundant and superfluous and it was deleted in the Upper House.

The next amendment relates to clause 125 which pertains to the laying of rules' regulations, etc. to be laid before the State Legislature. Not only the rules and regulations but also the notifications issued under sections 113 and 17 giving exemptions have to be laid before the State Legislature. Section 17 had not been included in this and so this amendment was made to include the notifications issued under section 17 also being laid before the State Legislature.

The last amendment relates to clause 129 giving safeguards to the holders of permits, passes, licences and authorisations issued under the existing law. This provision was necessary because after this Act comes into force those Acts will stand repealed, but by this amendment those permits, passes, licenses and authorizations will be deemed to have been in force till their date of expiry.

These are the amendments made. They are very simple and some of them are verbal. I request the House to accept the amendments.

†Sri M. C. NARASIMHAN.—We had moved some of these amendments, but they were not accepted.

Sri VEERENDRA PATIL.—These amendments were not at all moved in this House. Otherwise I would have accepted them.

Sri M. C. NARASIMHAN.—I do not think the Minister is correct. He might say that at time the amendment was considered unreasonable. We had given amendments to Sections 57, 58 and 87. We wanted the punishment under Section 87 to be very rigorous. It was then said that unless the punishment was rigorous it would not be possible to get compliance of the Act for better enforcement, but now the Minister seems to have taken one step forward and two steps backward by this amendment.

Mr. SPEAKER.—The provision in 87 (3) was superfluous and that is why it was deleted.

Sri M. C. NARASIMHAN.—Under sections 58 and 59 it is not merely the question of maximum punishment of Rs.2,000, but in addition there is also imprisonment for 2 years. I could understand the position if they had amended Section 87 (3) to the effect that the Magistrate could impose a punishment exceeding Rs.2,000.

12-00 NOON.

That could have been easily done, if that was the intention as it originally stood, that is, to enable a magistrate to impose of a fine of more than Rs. 2,000. This is not the only way. Now the magistrate is compelled to give a maximum punishment of not only imprisonment but also Rs. 2,000 fine. If the Government wanted to respect the sentiments of the House and the idea was to enable a magistrate to fine more than Rs. 2,000, it could be done by an appropriate amendment to Clauses 58 and 59.

Mr. SPEAKER.—As Clauses 58 and 59 stand, the maximum punishment is up to Rs. 2,000. Even if the sub-clause of 87 says that higher punishment could be given, it is inoperative. As the Hon'ble Minister says it is not "notwithstanding Clauses 58, 59 and 63." Now inoperative.

Sri M. C. NARASIMHAN.—Instead of saying "notwithstanding" what is done in Clause 32 is different. If the wording that "notwithstanding anything contained in sections 32, 58 and 59"—had been used, the purpose or the intention of this House would have been carried. This departure is one of policy and not of procedure. Clause 87(3) as it stood earlier intended to enable a magistrate to fine more than Rs. 2,000. He need not have resorted to the compelling procedure of imposing 2 years and fine of Rs. 2,000. If imprisonment was not compulsory and if a magistrate wanted to give more than Rs. 2,000 he would have been enabled to do so. Now a magistrate must necessarily give imprisonment as part and parcel of that punishment. This is an important point and not a mere question of procedure. I would have

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expected the Minister to move an amendment saying that "notwithstanding 58, 59 and 60, a magistrate may impose more than Rs. 2,000 fine", Section 32 of the Criminal Procedure Code is entirely different because it relates to the power of the magistrate. It involves a substantial question of policy with which this house has agreed. The Minister made out that the amendments are procedural and harmless, but that is not the case.

We do not wish to repeat the arguments we advanced in respect of the High Court Bill but our fears are confirmed now. The time of this House is wasted either due to the cursedness on the part of Government or due to the carelessness of those who advise them. When the bill came up here, we pleaded that it should be referred to a Select Committee. If that plea had been accepted, we would not find ourselves in the predicament in which we are placed to-day because a Select Committee would certainly have certainly corrected these verbal inaccuracies. Unfortunately the bill was rushed through this house post-haste. Even the very reasonable amendments moved by us were not accepted because the Minister was somehow interested in getting the bill passed with speed. The opposition pointed out several anomalies but the Minister paid a deaf year. Now, simply because some Congress Member in the Legislative Council choose in their wisdom to give amendments, the Government comes here to win over us. Is this a fair way of dealing with this House or is this the manner importance is attached to a bill of this nature.

For example, take Clause 16. If the Law Department had scrutinised the clause more carefully it had done, this anomaly would not have resulted. I do not understand the great need to amend clause 18(1). The Minister referred to Indian-made foreign liquor. That is curious. It cannot be manufactured except in a brewery or in a distillery. It is well-known that starch can be used at home for the purpose of manufacturing certain intoxicants. I do not think it is intended to cover such things at all. If it is a cottage industry, it does not come under the purview of this licence. It arises only in the case of big institutions. I do not find any special reason for having such clause.

Clause 44's amendment is a departure on the policy laid down by this House. I do not understand why it should be varied. We thought Government would indicate the conditions. The authority which issues a particular condition has certainly the right to take action in appropriate circumstances. It is not a question of illicit distillation alone but the question of toilet, medical and Ayurvedic preparations and a host of other things. That has to be taken care of under clause 44. We cannot be certain that it is only those conditions which are imposed by this statute that would count. Where is the question that it will lead to abuse of that power. If that is to be so, the very power

given to Government for the purpose of licensing itself can be abused. That argument may be quoted both ways. I do not see the special wisdom or justification attached to the abolition of this particular provision.

I do not see what is the special wisdom which attaches to the admission of this amendment unless it be that the Minister wants to say that the Council said it. No rational argument has been advanced in respect of that matter. So far as Section 125 is concerned, it appears that additional notifications are to be laid before the House. Whenever the State Government chooses to exempt a particular medical or toilet preparations containing alcohol not exceeding specified percentage, it seeks to lay it on the table. Of course, a point was made that nobody could be certain as to what is the degree or percentage of alcohol which could be considered to be intoxicant. That matter is to be laid before the House. But I wonder if the House is in a position really to take advantage of the right conferred under Section 125. Because there will be so many notifications. A bundle of papers have to be issued and collected. A purely administrative matter like this can be the subject-matter of scrutiny of the Legislature or by the Subordinate Legislation Committee or any other Committee of the House. Except adding to the list of documents we should carry here. I wonder whether it would serve any useful purpose, because it is purely an administrative matter.

†Sri G. VENKATAI GOWDA.—The reason advanced by the Minister for the deletion of sub-section (3) of Section 87 is that it is redundant because the maximum punishments are mentioned in Sections 58, 59 and 63. On that ground he wants to delete it. If this sub-section were to be retained there is scope for the Magistrate to impose a fine even exceeding Rs. 2,000 and not necessarily imprisonment. That power is curtailed by deletion of sub-section (3). So far as the other amendments are concerned, I fully endorse the arguments advanced by my friend Sri Nararimhan.

Sri VEERENDRA PATIL.—With regard to sub-clause (3) of Clause 87, there appears to be some confusion. Even if we retain sub-clause (3), it would be inoperative because we cannot give effect to this sub-clause at all. The object of providing this sub-clause (3) was only to increase the jurisdiction of the Magistrate.

Sri G. VENKATAI GOWDA.—Supposing you add “Notwithstanding the provision contained in Sections 58, 59.....”

Sri VEERENDRA PATIL.—That is why I wanted to make clear the policy of the Government with regard to the levy of penalty and imprisonment. It is already there and it is clearly laid down in Sections 58, 59 and 63. We are not going to alter that position and we have made it clear already; but this sub-clause (3) was intended only to raise the jurisdiction of the Magistrate. While drafting the Bill, there was a misapprehension that penalty exceeding Rs. 2,000 was provided in sections 58, 59 and 63. I do not know exactly because this Bill was drafted in 1958 or 1959. Frankly I have told you that the provision

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made in Sections 58, 59 and 63 is only to levy the penalty to the extent of Rs. 2,000. When there is already a provision and according to that provision the jurisdiction of the Magistrate has been raised to Rs. 2,000 this provision is redundant and it is not at all necessary. If at all it is redundant, it becomes inoperative. This was pointed out in the Upper House and I accepted this amendment. There is no harm in accepting the amendment. No useful purpose is going to be served with its retention.

With regard to the other clauses, I want to make it clear. There is no departure of policy at all. Minor amendments were moved in the Upper House, some verbal amendments were accepted there. They do not involve any questions of policy at all. Honourable Member Sri Narasimhan was saying that since these amendments have been moved by the Congress members in the Upper House, they have been accepted and that the amendments moved in this House were not accepted. That is not the case. I want to make it clear. There should not be any misapprehension with regard to these amendments. Most of these amendments were moved by the Opposition and these amendments were moved by the Opposition Member were found reasonable; that is why I have accepted the amendments. There should not be any controversy. I do not think any member has raised any objection with regard to the acceptance of these clauses. They are simple amendments: they are very necessary. I therefore request the Honourable Members to agree to these amendments.

Mr. SPEAKER.—The question is:

“That the amendments made by the Legislative Council to the Mysore Prohibition Bill, 1961 be taken into consideration”.

The motion was adopted

Motion to agree to the amendment

Sri VEERENDRA PATIL.—Sir, I beg to move:

“That the amendments made by the Legislative Council be agreed to”

Mr. SPEAKER.—The question is:

“That the amendments made by the Legislative Council be agreed to”.

The motion was adopted.

Mr. SPEAKER.—The House will now adjourn and meet on Monday at One P.M.

The House adjourned at Twenty five Minutes past Twelve of the Clock to meet again at One of the Clock, on Monday, the 13th November 1961.
